

STATE OF MICHIGAN  
COURT OF APPEALS

---

IN THE MATTER OF GRACE T. JERNSTAD  
TRUST.

---

ROBERT TRIPP and CANDACE REIMER,

Petitioners-Appellants,

v

THOMAS ANNELIN,

Respondent-Appellee.

---

UNPUBLISHED

March 25, 2003

No. 238615

Bay County Probate Court

LC No. 01-043184-TI

Before: Kelly, P.J. and White and Hoekstra, JJ.

PER CURIAM.

Petitioners appeal as of right an order dismissing their petition to invalidate trust amendments. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Decedent Grace T. Jernstad created a revocable intervivos trust on July 7, 1972. Amendments to the trust were made on May 2, 1991 and May 21, 1993, reducing petitioners' interest in the trust. Petitioners were given notice of the changes in 1993, but did not challenge the amendments until after Jernstad died on April 23, 2001. The probate court granted the motion, finding that petitioners were notified of the changes and consulted with an attorney, yet failed to initiate legal action for eight years. The probate court further found that dismissal was appropriate based on laches where the applicable statute of limitations was six years.

Petitioners were required to commence their action within six years after their claim accrued. MCL 600.5813. A claim accrues at the time the wrong upon which the claim is based was done regardless of the time when damage results. MCL 600.5827. The term "wrong" refers to the date on which the plaintiff was harmed by the defendant's act, not the date on which the defendant acted. *Stephens v Dixon*, 449 Mich 531, 534-535; 536 NW2d 755 (1995).

An undue influence claim is akin to a claim of fraud or misrepresentation. *In re Conant Estate*, 130 Mich App 493, 497; 343 NW2d 593 (1983). The period of limitations for actions alleging fraud or misrepresentation begins to run on the date the plaintiff knew or should have

known about the fraud or misrepresentation. *Boyle v General Motors Corp*, 250 Mich App 499, 502-505; 655 NW2d 233 (2002).

The probate court properly found that petitioners' interest had accrued at the time the result of the alleged undue influence was disclosed. A revocable intervivos trust creates a vested present interest in the beneficiary subject only to revocation by the grantor or settlor during her lifetime. *Detroit Bank & Trust Co v Grout*, 95 Mich App 253, 277; 289 NW2d 898 (1980). Petitioners did not commence their action within the limitations period.

Affirmed.

/s/ Kirsten Frank Kelly

/s/ Joel P. Hoekstra